



**Advice Note for Landlords**

**GDPR**

Aico | HomeLINK engaged Trowers & Hamlins LLP, legal experts in Social Housing, to assess HomeLINK's data analytics platform and provide a recommendation as to the lawful basis for processing data acquired by RSLs when deploying environmental sensors and utilising HomeLINK's actionable insights.

As of 1 January 2021 (following the end of the Brexit Transition Period) the data protection law that applies to UK companies that are handling the personal data of UK-based data subjects stems from the Data Protection Act 2018 (DPA) and the UK GDPR.

As HomeLINK gathers data that is 'Personally Identifiable', UK GDPR does apply. Since this data is gathered on behalf of and under contract with RSLs, the RSL is the data controller and HomeLINK is a data processor.

## Summary

Trowers & Hamlins have advised that for all activities undertaken with and by Aico | HomeLINK, Local Authorities ('LA') are able to rely upon 'Public task' as a lawful basis for processing due to the statutory function that LAs have to provide and maintain council housing. Housing Associations are able to rely upon 'Legitimate interest'.

Relying on 'Consent' as a lawful basis for processing is not recommended because it can be difficult to obtain to the standard required by GDPR. The Information Commissioner's Office ('ICO') also suggest avoiding consent to processing as a precondition of a service.

GDPR compliance obligations also fall on Aico | HomeLINK when processing personally identifiable data; as such, Aico | HomeLINK's Privacy Notice will inform residents what and why data is to be used and that it will be shared with the landlord, who will be the data controller of this information.

## Individual Data Points

The following data points are captured for platform management and communications purposes.

Data Point	Lawful basis options available to Landlord	Risks Identified*	Recommended lawful basis
First name, Last name & Address (including UPRN)	Necessary for the <i>legitimate interests</i> of the landlord (to provide services to tenants and to maintain and enhance their properties). Necessary to carry out a <i>public function</i> (Local Authorities Only - statutory function to provide and maintain council housing)	<b>R1</b>	HA: Legitimate interest LA: Public task
Tenancy start date Tenancy end date	Necessary for the <i>legitimate interests</i> of the landlord (to provide services to tenants and to maintain and enhance their properties). Necessary to carry out a <i>public function</i> (Local Authorities Only - statutory function to provide and maintain council housing)	<b>R1 and R2</b>	HA: Legitimate interest LA: Public task

\* Refer to the "Risks Identified" table, below.

# Insights

HomeLINK's actionable insights and the data points required for their computation are identified below.

Insight Name	Data Point	Optional?	Risk(s) Identified*	Recommended lawful basis
Condensation Damp and Mould	Temperature	No	<b>R1, R2 and R3</b>	HA: Legitimate interest LA: Public task
	Humidity	No		
Indoor Air Quality	Temperature	No	<b>R1, R2 and R3</b>	HA: Legitimate interest LA: Public task
	Humidity	No		
	CO <sub>2</sub>	No		
	Number of people in the household	Yes		
	Property Specification	Yes		
Cold Home	Temperature	No	<b>R1, R2 and R3</b>	HA: Legitimate interest LA: Public task
	Boiler Consumption Data	Yes		
	Age of residents in household	Yes		
Hot Home	Temperature	No	<b>R1, R2 and R3</b>	HA: Legitimate interest LA: Public task
	Age of residents in household	Yes		
Thermal Efficiency	Temperature	No	<b>R1, R2 and R3</b>	HA: Legitimate interest LA: Public task
	Property Specification	Yes		
Void Risk	CO <sub>2</sub>	No	<b>R1 and R2</b>	HA: Legitimate interest LA: Public task
Fuel Poverty	Temperature	No	<b>R1, R2 and R3</b>	HA: Legitimate interest LA: Public task
	Electricity usage	Yes		
	Boiler Consumption Data	Yes		

 Data point collected via sensor/device integration

 Data point collected from Landlord/at time of sensor installation

\* Refer to the "Risks Identified" table, below.

## Risks Identified

<b>R1</b>	Not necessarily personal data on its own but combined with other information held by the landlord, it is advisable to proceed as if GDPR applies.
<b>R2</b>	As the relevant data controller, landlords will need to comply with GDPR. Landlord's Privacy Notice/Policy should inform data subjects what data is being captured and the purposes that it will be used for.
<b>R3</b>	"Legitimate interest" (or "public function", if available) provides a stronger lawful basis than "compliance with legal obligation" because many landlords are able to comply with this statutory duty without collecting this data.

# Legal Basis - Notes

## Legitimate Interest

This basis is applicable when the collection and processing of a data point is necessary for the legitimate interests of the landlord to provide services to tenants and to maintain, enhance and manage their properties. For more information, see the 'ICO' website, [here](#).

## Public Task

This basis is applicable when the collection and processing of a data point is necessary to carry out a public task by Local Authorities who have a statutory function to provide and maintain council housing. For more information, see the ICO' website, [here](#).

## Legal Obligation

This basis is applicable when the collection and processing of a data point is necessary to comply with a legal obligation, where a Landlord has a duty to maintain homes to a standard that is fit for human habitation - Homes (Fitness for Human Habitation) Act 2018, Fuel Poverty (England) Regulations 2014 and duty to ensure the energy efficiency of properties - Warm Homes and Energy Conservation Act 2000 (see **R3**). For more information, see the ICO' website, [here](#).

## Consent

Informed consent as a legal basis has limitations. Landlord customers in the social housing sector rightly like to engage with their residents to ensure that they are informed of the latest service developments. The temptation may be to adopt a policy of only installing (or collecting information from) environmental sensors if the tenant consents to it.

Additionally, consent to the standard required by GDPR can be difficult to obtain. UK GDPR requires that consent must be freely given, specific, informed and unambiguous. It must also be given by a positive action such as ticking a box or signing a form and the Data Controller must be able to demonstrate (i.e. keep a record) that it has been given. These together create an administrative burden in relying on consent as a lawful basis for processing.

Consent can also be withdrawn at any time. The possibility that a tenant may withhold consent at the outset or withdraw consent during HomeLINK's service delivery would lead to a reduction in the efficacy of HomeLINK's product and wasted installation costs. For more information, see the ICO' website, [here](#).

It is also viable to ask for 'consent' without it being the legal basis of data processing. This so-called 'ethical' consent would allow a resident to limit the level of data processing without requiring the landlord to remove the sensors, for example.

